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FEDERAL ELECTION COMMISSION
Washington, DC 20463

**SUBMITTED LATE-
AGENDA ITEM**

For Meeting of: **AUG 1 1996**

July 30, 1996

MEMORANDUM

TO: The Commission

THROUGH: John C. Surina *John C. Surina*
Staff Director

FROM: Lawrence M. Noble *Lawrence M. Noble*
General Counsel

N. Bradley Litchfield *N. Bradley Litchfield*
Associate General Counsel

Michael Marinelli *Michael Marinelli*
Attorney

SUBJECT: OGC amendment to Revised Draft of Advisory Opinion 1996-25

Attached is a proposed amendment to the revised draft of the subject opinion (Agenda Document #96-77) which is to be considered by Commission at its August 1, 1996 meeting.

The changes made to the revised draft reflect this office's analysis and consideration of a July 24 letter from David Frulla (counsel to SPAD) to the Commission. These changes, found on page 5 and bolded, more accurately reflect the relationship between the vacation plan payments, the employers and the union members.

Attachment

OGC Amendment
Ag. Doc #96-77
Page 5 only.

1 year would not fulfill SPAD's "best efforts" obligations as set out in 11 CFR 104.7(b)(1) and
2 (2).⁵ However, with a modification, your alternative to report that a contributor is employed by
3 "various U.S.-flag vessel operators" would meet the requirements of the regulations. In addition
4 to this description, SPAD should request information from contributors (whose annual
5 contribution exceeds \$200) regarding their most recent employment. SPAD should include this
6 information in its reports.

7 This information, even if it does not indicate current employment status, would provide
8 relevant information for disclosure purposes regarding the recent employment situation of SPAD
9 contributors. Furthermore, the SPAD contributions (that cause the SIU member to exceed
10 the \$200 threshold) are derived from compensation in the form of vacation pay. The funds
11 to make the vacation plan payments may come from the SIU member's recent employers.
12 It is the employment relationships that enable the SIU member to make a contribution to
13 SPAD. Therefore, the entry for a contributor's employer should read: "various U.S.-flag vessel
14 operators: most recently xx company."

15 The Commission concludes that SPAD is required, as any other political committee, to
16 follow the procedures of 11 CFR 104.7(b)(1),(2) and (3). Should a contributor fail to provide
17 SPAD with its current or most recent employer after the initial inquiry made under section
18 104.7(b)(1), SPAD must, under section 104.7(b)(2) make a follow up inquiry.⁶

⁵ You state in your request that, technically, members of SIU are unemployed at the time they make their contributions. However, because of the industry's employment practices that you have explained, to disclose their employment status as "unemployed" would be somewhat inaccurate.

⁶ The other requirements, as set out in section 104.7(b)(2) and in accord with *RNC*, are that the inquiry may be either written or oral (documented by Committee writing), that the inquiry be made no later than thirty (30) days after the receipt of the contribution, that the request not include any other material or solicitation, but it may thank